

# 2026 SESSION

INTRODUCED

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## HOUSE BILL NO. 1263

Offered January 14, 2026

Prefiled January 14, 2026

A BILL to amend and reenact § 40.1-55 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 10 of Title 32.1 an article numbered 5, consisting of sections numbered 32.1-331.18 through 32.1-331.21, and by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.24; and to repeal §§ 32.1-331.04 and 40.1-54.3 and Article 2.1 (§§ 40.1-57.2 and 40.1-57.3) of Chapter 4 of Title 40.1 of the Code of Virginia, relating to collective bargaining by public employees; individual home care providers; Virginia Home Care Authority established; Public Employee Relations Board established; exclusive bargaining representatives.

Patron—Tran

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-55 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 10 of Title 32.1 an article numbered 5, consisting of sections numbered 32.1-331.18 through 32.1-331.21, and by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.24, as follows:

### Article 5.

Virginia Home Care Authority.

#### § 32.1-331.18. Virginia Home Care Authority; creation.

There is hereby created within the Department of Medical Assistance Services the Virginia Home Care Authority to ensure the effectiveness and quality of the services of home care programs in the Commonwealth.

#### § 32.1-331.19. Definitions.

As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Home Care Authority established pursuant to this article.

"Collective bargaining" means the same as that term is defined in § 40.1-57.4.

"Covered program" means a program to provide direct support services funded in whole or in part by the Commonwealth, including consumer-directed care services under the Commonwealth Coordinated Care Plus program and state plan programs or waiver programs established pursuant to home and community-based service waivers authorized under § 1115 or 1915(c) of the Social Security Act.

"Direct support services" means personal care services that assist participants with instrumental activities of daily living, including grooming, toileting, bathing, eating, dressing, monitoring health status and physical condition, and assisting with housekeeping activities, and other in-home, long-term services and supports provided to an elderly person or person with a disability to meet such person's daily living needs and ensure that such person may adequately function at home and have safe access to the community.

"Exclusive bargaining representative" means the same as that term is defined in § 40.1-57.4.

"Individual provider" means an individual employed by a participant or participant representative to provide direct support services to such participant.

"Participant" means an individual who receives direct support services from an individual provider through a covered program.

"Participant representative" means a participant's legal guardian or an individual having the authority and responsibility to act on behalf of a participant with respect to the provision of direct support services through a covered program.

#### § 32.1-331.20. Authority composition; membership; quorum.

A. The Authority shall consist of five members to be appointed in accordance with the provisions of this section. The Director of the Department of Medical Assistance Services, or his designee, shall be a permanent member of the Authority and shall serve as chair. The Secretary of Health and Human Resources shall appoint two members representing the interests of participants and participant representatives and two members representing nonprofit organizations that advocate on behalf of elderly adults or people with disabilities.

B. Except for the initial appointments, appointees to the Authority by the Secretary of Health and Human Resources shall serve four-year terms.

C. If a vacancy occurs, a new Authority member shall be appointed or designated to serve the remainder of the unexpired term or, if the vacancy occurs as the result of the completion of a term, to serve a full term.

D. Members of the Authority may serve successive terms.

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59       *E. A majority of the members of the Authority shall constitute a quorum for the transaction of any  
60 business. The Authority shall make its own policies and procedures and shall adopt bylaws not inconsistent  
61 with this article governing its operations. The Authority shall adopt bylaws consistent with the Virginia  
62 Freedom of Information Act (§ 2.2-3700 et seq.) governing its procedures and the holding of meetings. The  
63 Authority shall meet at the call of the chair and as may be provided in the bylaws.*

64       **§ 32.1-331.21. Powers and duties of Authority.**

65       *The Authority shall have the following powers and duties:*

66       1. *To establish and maintain a central registry of individual providers;*

67       2. *To create a system to match participants who need direct support services with individual providers;*

68       3. *To arrange for the provision of a paid training program to be available to all individual providers.*

69       *Such training program shall be developed in consultation with participants and participant representatives,  
70 individual providers, and any exclusive bargaining representative of individual providers. The Authority  
71 shall establish requirements for the provision of such training;*

72       4. *To act as joint employer for individual providers by:*

73       *a. Serving as the public employer of individual providers for purposes of collective bargaining pursuant  
74 to Article 2.2 (§ 40.1-57.4 et seq.) of Chapter 4 of Title 40.1;*

75       *b. Ensuring that individual providers' payments, wages, and benefits are timely and accurately processed  
76 and that appropriate withholdings and tax deductions are made; and*

77       *c. Maintaining personnel records for individual providers, including tracking their participation in  
78 orientations and trainings;*

79       *5. If there is no current exclusive bargaining representative for individual providers, to provide an  
80 employee organization, as defined in § 40.1-57.4, seeking certification as an exclusive bargaining  
81 representative of individual providers the following contact information within 10 days after a request for  
82 such information and in an editable electronic format: the name, work address, home address, work  
83 telephone number, home telephone number, work email address, and personal email address of each  
84 individual provider on file with the Authority. Records of personal and home contact information described  
85 in this subdivision are not public records under the Virginia Public Records Act (§ 42.1-76 et seq.) and shall  
86 be exempt from public disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

87       *6. To provide for a mandatory orientation program for individual providers related to employment in  
88 providing direct support services, which orientation program shall meet the following requirements:*

89       *a. Attendance shall be limited to individual providers, participants, the individual providers' employer of  
90 record, and an exclusive bargaining representative of individual providers; and*

91       *b. The Authority shall provide an attending exclusive bargaining representative a list of each individual  
92 provider registered for an orientation at least 24 hours before the orientation begins;*

93       *7. To espouse, support, and work to preserve participant selection and self-direction of individual  
94 providers;*

95       *8. To serve as a communications hub for the individual provider workforce to share information relevant  
96 to individual providers;*

97       *9. To provide home care assistance to participants to ensure a continuation of direct support services in  
98 the event their individual provider is absent or no longer able to perform his responsibilities;*

99       *10. To oversee the quality of direct support services and ensure direct support services are provided in  
100 conformance with all applicable requirements;*

101       *11. To actively pursue and implement all available strategies to maximize federal Medicaid  
102 reimbursement for individual provider programs;*

103       *12. To collect statewide information and data related to the individual provider workforce, including  
104 individual provider pay, retention and turnover rates, individual provider job satisfaction, service gaps  
105 caused by individual provider shortages, and other relevant information;*

106       *13. To enter into contracts and agreements, and contract for services of persons or entities, as  
107 appropriate to accomplish the purposes and provisions of this article;*

108       *14. To employ, appoint, engage, and compensate employees to accomplish the purposes and provisions of  
109 this article; and*

110       *15. Except as otherwise provided by law, to perform all other acts necessary or convenient to implement  
111 the purposes and provisions of this article.*

112       **§ 40.1-55. Employee striking terminates, and becomes temporarily ineligible for, public  
113 employment.**

114       *A. Any employee of the Commonwealth, or of any county, city, town, or other political subdivision  
115 thereof, or of any agency of any one of them, who, in concert with two or more other such employees, for the  
116 purpose of obstructing, impeding, or suspending any activity or operation of his employing agency or any  
117 other governmental agency, strikes or willfully refuses to perform the duties of his employment shall, by such  
118 action, be deemed to have terminated his employment and shall thereafter be ineligible for employment in  
119 any position or capacity during the next 12 months by the Commonwealth, or any county, city, town, or other  
120 political subdivision of the Commonwealth, or by any department or agency of any of them.*

121      B. The provisions of subsection A shall apply to any employee of any county, city, or town or local school  
 122      board without regard to any local ordinance or resolution adopted pursuant to § 40.1-57.2 by such county,  
 123      city, or town or school board that authorizes its employees to engage in collective bargaining.

124      Article 2.2.

125      *Collective Bargaining by Public Employees.*

126      **§ 40.1-57.4. Definitions.**

127      *As used in this article, unless the context requires a different meaning:*

128      *"Arbitration" means the procedure whereby the parties involved in an impasse or grievance dispute  
 129      submit their differences to a third party for a final and binding decision or as otherwise provided in this  
 130      article.*

131      *"Board" means the Public Employee Relations Board established pursuant to § 40.1-57.7.*

132      *"Collective bargaining" or "negotiation" means the performance of the mutual obligation of the public  
 133      employer, by its representatives, and the representatives of its public employees to negotiate in good faith at  
 134      reasonable times and places with respect to wages, hours, and other terms and conditions of employment and  
 135      the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with  
 136      the intention of reaching an agreement, or to resolve questions arising under the agreement, and includes  
 137      executing a written contract incorporating the terms of any agreement reached.*

138      *"Confidential employee" means an employee who acts in a confidential capacity with respect to an  
 139      individual who formulates or effectuates management policies in the field of labor-management relations.*

140      *"Covered program" means a program to provide direct support services funded in whole or in part by the  
 141      Commonwealth, including consumer-directed care services under the Commonwealth Coordinated Care Plus  
 142      program and state plan programs or waiver programs established pursuant to home and community-based  
 143      service waivers authorized under § 1115 or 1915(c) of the Social Security Act.*

144      *"Direct support services" means personal care services that assist participants with instrumental  
 145      activities of daily living, including grooming, toileting, bathing, eating, dressing, monitoring health status  
 146      and physical condition, and assisting with housekeeping activities and other in-home, long-term services and  
 147      supports provided to an elderly person or person with a disability to meet such person's daily living needs  
 148      and ensure that such person may adequately function at home and have safe access to the community.*

149      *"Emergency medical services provider" means an individual who is employed by or a member of an  
 150      emergency medical services agency that is licensed pursuant to § 32.1-111.6. "Emergency medical services  
 151      provider" does not include (i) the highest-ranking official of a department or agency providing emergency  
 152      medical services or (ii) an employee one rank below such highest-ranking official.*

153      *"Employee organization" means an organization in which public employees participate and which exists  
 154      for the purpose, in whole or in part, of bargaining collectively or dealing with public employers concerning  
 155      grievances, labor disputes, wages, hours, and other terms and conditions of employment.*

156      *"Exclusive bargaining representative" or "exclusive representative" means an employee organization (i)  
 157      certified as the exclusive bargaining representative of a bargaining unit by the Board pursuant to the  
 158      provisions of this article or (ii) recognized as an exclusive representative by any county, city, town, local  
 159      school board, or other public employer as of July 1, 2027.*

160      *"Firefighter" means the same as that term is defined in § 9.1-300, except that for the purposes of this  
 161      article, "firefighter" does not include (i) the chief or highest-ranking official of a fire department or agency  
 162      or (ii) an employee one rank below such chief or highest-ranking official.*

163      *"Governing body" means the General Assembly; any board, council, authority, or commission, whether  
 164      elected or appointed, of the Commonwealth; any local government or local school board; or any other public  
 165      body that determines the policies for operation of a political subdivision, public transportation provider, or  
 166      public institution of higher education of the Commonwealth.*

167      *"Impasse" means the failure of a public employer and an exclusive bargaining representative to reach  
 168      agreement in the course of negotiations.*

169      *"Individual provider" means an individual employed by a participant or the representative of such  
 170      participant in a covered program to provide direct support services to such participant.*

171      *"Local government" means:*

172      1. Any county, city, or town, as defined in § 15.2-102, or other local or regional political subdivision or  
 173      body politic and corporate designated as such by the General Assembly;

174      2. Any local public school board or other local education agency or the governing body under any joint  
 175      agreement of any type formed by two or more school divisions; and

176      3. Any public transportation provider.

177      *"Local government employee" means any individual who is employed by a local government, except  
 178      individuals exempted from the provisions of this article by § 40.1-57.6.*

179      *"Mediation" means assistance by an impartial third party to reconcile an impasse between a public  
 180      employer and the exclusive bargaining representative regarding wages, hours, and other terms and  
 181      conditions of employment through interpretation, suggestion, and advice.*

182      *"Participant" means a person who receives direct support services from an individual provider.*

183        "Public employee" means any state employee or local government employee except an individual  
184        exempted from the provisions of this article by § 40.1-57.6. "Public employee" includes an employee of a  
185        local school board, an employee of a public transportation provider, and an employee of any public  
186        institution of higher education, as that term is defined in § 23.1-100, including a student employed in any  
187        capacity.

188        "Public employer" means any state agency, local government, public institution of higher education, as  
189        that term is defined in § 23.1-100, local school board, or public transportation provider.

190        "Public transportation provider" means:

- 191        1. A transportation district established pursuant to § 33.2-1903;
- 192        2. A public service corporation as defined in § 56-1 that is wholly owned by any county, city, or town or  
193        any combination thereof and provides public transportation services; and
- 194        3. Any other political subdivision comprising any county, city, or town or any combination thereof that  
195        provides public transportation services.

196        "State agency" means the Commonwealth or any agency, department, or institution thereof, including any  
197        public institution of higher education and any independent political subdivision.

198        "State employee" means any individual who is employed by a state agency, except individuals exempted  
199        from the provisions of this article by § 40.1-57.6.

200        "Strike" means, in concerted action with others, a public employee's refusal to report to duty, willful  
201        absence from his position, or stoppage of work for the purpose of inducing, influencing, or coercing a change  
202        in the conditions, compensation, rights, privileges, or obligations of public employment.

203        "Supervisor" means an employee who devotes a majority of his work time to supervisory duties, who  
204        customarily and regularly directs the work of two or more other employees, and who has the authority, in the  
205        interest of the employer, to hire, promote, or discipline other employees or to recommend such actions  
206        effectively, but does not include individuals who perform merely routine, incidental, or clerical duties who  
207        occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their  
208        subordinates. "Supervisor" does not include (i) lead employees and employees who have authority limited to  
209        assigning and directing employees or (ii) a firefighter.

210        "Virginia Home Care Authority" or "the Authority" means the Virginia Home Care Authority established  
211        pursuant to § 32.1-331.18.

212        **§ 40.1-57.5. Collective bargaining by public employees.**

213        Public employees may:

- 214        1. Organize, form, join, or assist any employee organization or refrain from any such activity;
- 215        2. Negotiate collectively through representatives of their own choosing; and
- 216        3. Engage in other concerted activities for the purposes of collective bargaining or other mutual aid or  
217        protection insofar as any such activity is not prohibited by this article or any other law of the  
218        Commonwealth.

219        **§ 40.1-57.6. Exemptions from article.**

220        A. The following individuals shall be excluded from the provisions of this article:

- 221        1. Elected officials, persons appointed to fill vacancies in elected offices, and members of any board or  
222        commission;

223        2. Representatives of a public employer, including the administrative officer, director, or chief executive  
224        officer of a public employer or major division thereof, as well as his deputy, first assistant, and any  
225        nonbargaining unit supervisory employees, provided, however, that nothing herein shall be construed to  
226        prohibit a public employer from bargaining with, and entering into a contract with, a labor organization  
227        certified to represent a separate unit composed solely of supervisors;

- 228        3. Confidential employees;

229        4. Temporary public employees employed for a period of three months or less in any 24-month period;

230        5. Judicial branch employees, including any judge as defined in § 51.1-301, referees, receivers, arbiters,  
231        masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any  
232        court to exercise judicial functions, and jurors and notaries public;

233        6. Patients and inmates employed, sentenced, or committed to any state or local institution; and

234        7. Employees working for the General Assembly.

235        B. The provisions of this article shall apply to law-enforcement officers, as defined in § 9.1-101, as well  
236        as any officer elected pursuant to Article VII, Section 4 of the Constitution of Virginia. However, (i) no  
237        collective bargaining representative shall represent a law-enforcement officer or constitutional officer in a  
238        pending internal investigation involving serious misconduct as defined in statewide professional standards of  
239        conduct adopted by the Criminal Justice Services Board and (ii) no collective bargaining agreement shall  
240        limit, alter, or otherwise impact the procedures required by the Law-Enforcement Officers Procedural  
241        Guarantee Act (§ 9.1-500 et seq.), decertification pursuant to § 15.2-1707, or any regulations adopted  
242        pursuant to § 9.1-102 relating to the statewide professional standards of conduct applicable to certified law-  
243        enforcement officers and certified jail officers and procedures for decertification based on serious  
244        misconduct in violation of such standards. Additionally, to the extent that any collective bargaining

245 agreement conflicts with any provision of a state or federal law, regulation, or local ordinance, such law,  
 246 regulation, or ordinance shall control.

247 **§ 40.1-57.7. Public Employee Relations Board created; powers.**

248 A. Notwithstanding the provisions of § 40.1-1, the Public Employee Relations Board is established as an  
 249 agency, as defined in § 2.2-4001, in the executive branch of state government. The Board shall be composed  
 250 of five members, of whom:

251 1. Two members shall be representatives of management interests;

252 2. One member shall be a representative of employee organizations representing state employees or local  
 253 government employees employed by a county, city, town, or public transportation provider and shall be  
 254 selected from a list of names submitted by the state labor federation with employee organization affiliates  
 255 that have been certified as exclusive bargaining representatives for state, county, city, town, or public  
 256 transportation provider employees;

257 3. One member shall be a representative of employee organizations representing local government  
 258 employees employed by a local public school board and shall be selected from a list of names submitted by  
 259 the state education employee organization with local employee organization affiliates that have been certified  
 260 as exclusive bargaining representatives of public school board employees; and

261 4. One member shall be a representative of the public and shall serve as chair of the Board.

262 The Governor shall make initial appointments to the Board by October 1, 2027. Such appointments shall  
 263 be subject to confirmation by the General Assembly.

264 B. All members shall be appointed by the Governor for a term of three years or until their successors have  
 265 been appointed, except that the initial appointment of one of the members described in subdivision A 1 shall be  
 266 for a term of one year, the initial appointment of the member described in subdivision A 2 shall be for a term  
 267 of two years, and the initial appointment of the member described in subdivision A 3 shall be for a term  
 268 of two years.

269 C. A minimum of three members shall be required to constitute a quorum to conduct official business of  
 270 the Board in a contested case. In the event that there are three or more vacancies on the Board for a period  
 271 of 120 days or more, a party to a contested case may remove the case to the circuit court for the locality  
 272 where the case arose.

273 D. Members of the Board shall receive such compensation for the performance of their duties as may be  
 274 provided therefor in a general appropriation act.

275 E. The Board shall:

276 1. Administer the provisions of this article;

277 2. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive  
 278 evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate  
 279 such power to a member of the Board or persons appointed or employed by the Board, including hearing  
 280 officers, for the performances of its functions. In cases of refusal to obey a subpoena issued by the Board, the  
 281 circuit court of the locality where the person refusing to obey such subpoena may be found, on application by  
 282 the Board, may issue an order requiring such person to appear before the Board and to testify and produce  
 283 evidence ordered relating to the matter under investigation, and any failure to obey such order shall be  
 284 punished by the court as a contempt thereof; and

285 3. Adopt such regulations and rules as it may deem necessary to carry out the purposes of this article.

286 F. The Board shall have the power to:

287 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

288 2. Adopt, use, and alter at will a common seal;

289 3. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
 290 duties, the furtherance of its purposes, and the execution of its powers under this article;

291 4. Employ, at its discretion, such employees as may be necessary and fix their compensation to be payable  
 292 from funds made available to the Board. Legal services for the Board shall be provided by the Attorney  
 293 General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

294 5. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business  
 295 shall be transacted and the manner in which the powers of the Board shall be exercised and its duties  
 296 performed. The Board may delegate or assign any duty or task to be performed by the Board to any officer or  
 297 employee of the Board. The Board shall remain responsible for the performance of any such duties or tasks.  
 298 Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines  
 299 for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the  
 300 Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the  
 301 responsibility to ensure faithful performance of the duties and tasks;

302 6. Conduct or engage in any lawful activity, effort, or project consistent with the Board's purposes or  
 303 necessary or convenient to exercise its powers;

304 7. Develop policies and procedures generally applicable to the procurement of goods, services, and  
 305 construction, based upon competitive principles;

306 8. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title

307 2.2;

308 9. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production  
309 of records, memoranda, papers, and other documents before the Board or any agent of the Board; and  
310 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the  
311 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and  
312 issue case decisions, subject to final decision by the Board, on application of any party aggrieved;

313 10. Enter into consent agreements including findings of fact and that may include an admission or a  
314 finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not  
315 be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but  
316 may be considered by the Board in future proceedings; and

317 11. Do all acts necessary or advisable to carry out the purposes of this article.

318 **§ 40.1-57.8. Powers of public employers.**

319 Except as limited by the provisions of a collective bargaining agreement, the provisions of this title, or by  
320 any other statutory provision, a public employer may:

321 1. Direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate public  
322 employees;

323 2. Determine qualifications for employment and the nature and content of personnel examinations; and

324 3. Take actions as may be necessary to carry out the mission of such public employer in emergencies as  
325 defined in § 44-146.16.

326 **§ 40.1-57.9. Duty to negotiate in good faith.**

327 A. A public employer and an employee organization that is the exclusive bargaining representative of  
328 such public employer's employees shall meet at reasonable times, including meetings reasonably in advance  
329 of such public employer's budget-making process, to negotiate in good faith with respect to wages, hours, and  
330 other terms and conditions of employment. A collective bargaining agreement negotiated between such  
331 employer and such exclusive bargaining representative shall contain a grievance resolution procedure that  
332 shall apply to all employees in the bargaining unit and shall provide for final and binding arbitration of  
333 disputes concerning disciplinary and adverse personnel actions and the administration or interpretation of  
334 the agreement, including questions of eligibility for arbitration. The collective bargaining agreement  
335 negotiated between the public employer and the exclusive bargaining representative shall also include a  
336 provision for the voluntary payroll deduction of fees and dues to such labor organization with authorization  
337 for the payroll deduction of such fees and dues revocable at the option of the public employee in accordance  
338 with the terms of the payroll deduction authorization, which shall, at a minimum, provide for one opportunity  
339 each year to revoke such authorization. Where a public employee is in a bargaining unit represented by an  
340 exclusive representative, the public employer of such employee shall honor a payroll deduction authorization  
341 for dues and fees paid to such exclusive representative only. Such public employer shall negotiate only with  
342 such exclusive bargaining representative on matters contained in this article. Such obligation to negotiate in  
343 good faith does not compel either party to agree to a proposal or make a concession.

344 B. A public employer shall honor the terms of employees' authorizations for payroll deductions to an  
345 exclusive representative made in any form including those that satisfy the Uniform Electronic Transactions  
346 Act (§ 59.1-479 et seq.), including electronic authorizations and voice authorizations. Unless an exclusive  
347 representative otherwise directs, a public employee's request to cancel or change authorization for payroll  
348 deductions shall be directed to such exclusive representative and not to a public employer. An exclusive  
349 bargaining representative shall be responsible for processing such requests in accordance with the terms of  
350 such authorization. An exclusive representative that certifies that it has and will maintain individual public  
351 employees' authorizations shall not be required to provide a copy to a public employer unless a dispute arises  
352 about the existence or terms of such authorization. An exclusive representative that is at fault shall indemnify  
353 a public employer for any disputed deductions made on behalf of a public employee in reliance on such  
354 authorization.

355 C. 1. a. Not later than 10 calendar days after the hire of a public employee, a public employer shall  
356 provide the following contact information to such employee's exclusive bargaining representative, in an  
357 editable electronic format agreed to by such exclusive bargaining representative: such public employee's  
358 name, job title, worksite location, home address, work telephone number, home telephone number, work  
359 email address, and personal email on file with such public employer.

360 b. A public employer shall provide an exclusive bargaining representative with a list of all contact  
361 information specified in this subsection in an editable electronic format agreed to by such exclusive  
362 bargaining representative, for all employees in a bargaining unit, not less than once a month.

363 c. Records of a public employee's personal and home contact information described in this subsection are  
364 not public records under the Virginia Public Records Act (§ 42.1-76 et seq.) and shall be exempt from  
365 disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

366 2. A public employer shall provide an exclusive bargaining representative reasonable access to the public  
367 employees that the exclusive bargaining representative represents. Such access includes:

368 a. The right to meet with employees during the work day to discuss and investigate grievances and other

369 workplace issues;

370 b. The right to conduct worksite meetings during meal periods and other breaks, and before and after the  
371 workday; and

372 c. The right to address newly hired employees on paid time for no less than 30 minutes during new  
373 employee orientations, within 30 days of hire or, if a public employer does not conduct new employee  
374 orientations, at individual or group meetings of new employees within 30 days of hire. Attendance at such  
375 orientation or meeting shall be mandatory for newly hired employees. Managers, supervisors, and other  
376 nonbargaining unit employees shall not attend an exclusive bargaining representative's presentation at such  
377 orientation or meeting. A public employer shall give an exclusive bargaining representative not less than 10  
378 days' written notice of such orientation or meeting, except that shorter notice may be provided if there is an  
379 urgent need critical to such public employer's operations that was not reasonably foreseeable by such public  
380 employer. The structure and manner of such access to new employee meetings or orientations shall be  
381 determined through negotiation.

382 3. Exclusive bargaining representatives shall have the right to communicate with bargaining unit  
383 members concerning collective bargaining; the administration of collective bargaining agreements,  
384 grievances, and other workplace issues; and internal union matters via the employer's email systems or other  
385 communication systems commonly used at the workplace.

386 4. The duty to bargain in good faith includes, in the case of a public employer, a duty to furnish data to  
387 the exclusive representative that:

388 a. Is normally maintained by the public employer in the regular course of business;

389 b. Is reasonably available and necessary for full and proper discussion, understanding, and negotiation of  
390 subjects within the scope of collective bargaining or subject to a grievance under a collective bargaining  
391 agreement; and

392 c. Does not include an obligation to furnish information that constitutes guidance, advice, counsel, or  
393 training provided for nonbargaining unit employees relating to collective bargaining.

394 **§ 40.1-57.10. Prohibited conduct.**

395 A. No public employer or exclusive bargaining representative shall refuse to negotiate in good faith with  
396 respect to the scope of negotiations as set forth in § 40.1-57.15.

397 B. No public employer or its designated representative shall:

398 1. Interfere with, restrain, or coerce public employees in the exercise of rights granted by this article;

399 2. Dominate or interfere in the administration of any employee organization;

400 3. Encourage or discourage membership in any employee organization, committee, or association  
401 including by discrimination in hiring, tenure, or other terms or conditions of employment;

402 4. Use any public funds or official position to support or oppose an employee organization, except that a  
403 public employer may provide routine services, facilities, and paid time for union representatives pursuant to  
404 law or to a collective bargaining agreement between such public employer and an exclusive representative;

405 5. Discharge or discriminate against any public employee because such public employee has filed an  
406 affidavit, petition, or complaint or given any information or testimony under this article or has formed,  
407 joined, or chosen to be represented by any exclusive bargaining representative;

408 6. Refuse to negotiate with representatives of any employee organization that is an exclusive bargaining  
409 representative as required in this article;

410 7. Deny the rights accompanying certification as the exclusive representative granted in this article,  
411 including by denying a public employee the right to a representative designated by the exclusive  
412 representative at any examination of the public employee in connection with an investigation if:

413 a. The public employee reasonably believes that the examination may result in disciplinary action against  
414 him; and

415 b. The public employee requests representation;

416 8. Refuse to participate in good faith in any agreed-upon impasse procedures or those set forth in this  
417 article;

418 9. Refuse to reduce a collective bargaining agreement to writing and sign such agreement; or

419 10. Disclose to any private entity, other than the exclusive representative, personally identifiable  
420 information about public employees within a bargaining unit that is exempt from disclosure, including the  
421 contact information specified in § 40.1-57.9.

422 C. No employee organization or its agents shall:

423 1. Interfere with, restrain, or coerce a public employee with respect to rights granted in this article or  
424 with respect to selecting an exclusive representative;

425 2. Fail to represent an employee who is in a bargaining unit exclusively represented by the employee  
426 organization fairly and without discrimination, provided that (i) such failure is willful or deliberate and (ii)  
427 an exclusive representative may require a public employee who is not a dues-paying member to pay for the  
428 reasonable costs and fees of handling a grievance. Failure to pay costs and fees shall relieve the exclusive  
429 representative of further responsibility to the non-member regarding the grievance;

430 3. Refuse to negotiate with the public employer as required in this article;

431     4. Refuse to participate in good faith in any agreed-upon impasse procedures or procedures set forth in  
432     this article; or  
433     5. Violate the impasse provisions of this article, which are hereby made applicable to public employers,  
434     public employees, and exclusive representatives.

435     **§ 40.1-57.11. Board procedures.**

436     A. Proceedings against a party alleging a violation of § 40.1-57.10 shall be commenced by filing a charge  
437     with the Board within six months of the alleged violation, or acquiring knowledge thereof, and causing a  
438     copy of the charge to be served upon the accused party in the manner of an original notice as provided in  
439     § 40.1-57.21. The accused party shall have 10 business days within which to file a written answer to the  
440     charge. The Board may conduct a preliminary investigation of the alleged violation, and if the Board  
441     determines that the charge has no legal or factual basis, it may dismiss the charge. If it does not dismiss the  
442     charge, the Board shall promptly thereafter set a time and place for a hearing in the locality where the  
443     alleged violation occurred or in the locality where the Board maintains its principal office. The parties shall  
444     be permitted to be represented by counsel or other designated representative, summon witnesses, and request  
445     the Board to subpoena witnesses and the production of records on the requester's behalf. Compliance with  
446     the technical rules of pleading and evidence shall not be required.

447     B. The Board may designate a hearing officer to conduct any hearing. The hearing officer shall have such  
448     powers as may be exercised by the Board for conducting the hearing and shall follow the procedures adopted  
449     by the Board for conducting the hearing. The decision of the hearing officer may be appealed to the Board  
450     and the Board may hear the case de novo or upon the record as submitted before the hearing officer.

451     C. The Board shall provide for an official written transcript to report the proceedings and the Board shall  
452     affix the reasonable amount of compensation for such service, and such amount shall be taxed as other costs.

453     D. The Board shall file its findings of fact and conclusions of law. If the Board finds that the party  
454     accused has violated any provision of this article, the Board may issue an order directing the party to cease  
455     and desist engaging in violation and may order such other affirmative relief as is necessary to remedy the  
456     violation. The Board may petition the circuit court for the locality in which the Board maintains its principal  
457     office, the locality in which the public employer maintains its principal office, or the locality in which the  
458     charge arose for enforcement of its orders.

459     E. Any party aggrieved by any decision or order of the Board may appeal to the circuit court for the  
460     locality in which the Board maintains its principal office, the locality in which the public employer maintains  
461     its principal office, or the locality in which the charge arose to obtain judicial review of an order of the  
462     Board entered under this article. The Board and all parties of record in the proceedings before the Board  
463     shall be named as parties to the appeal. In any judicial review proceeding, the employee organization may  
464     sue or be sued as an entity and on behalf of the employees whom it represents. The service of legal process,  
465     summons, or subpoena upon an officer or agent of the employee organization in his capacity as such shall  
466     constitute service upon such employee organization.

467     F. Any appeal of a decision made by the Board shall proceed in accordance with the provisions of the  
468     Administrative Process Act (§ 2.2-4000 et seq.) and corresponding Rules of the Supreme Court of Virginia.

469     G. In the absence of fraud, the findings of fact made by the Board shall be conclusive if supported by  
470     substantial evidence on the record considered as a whole.

471     H. Any order or decision of the Board may be modified, reversed, or set aside on one or more of the  
472     grounds set forth in § 8.01-581.010 or 8.01-581.011.

473     I. If a circuit court, on appeal, reverses or sets aside an order or decision of the Board, the court may  
474     remand the case to the Board for further proceedings in harmony with the holdings of the court, or it may  
475     enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect  
476     as if action had been originally brought and tried in such court. The assessment of costs in such appeals shall  
477     be at the discretion of the court.

478     **§ 40.1-57.12. Determination of appropriate bargaining unit.**

479     A. Any determination by the Board of an appropriate bargaining unit shall be made upon the filing of a  
480     petition by an employee organization or in accordance with this section. Any disputes about the placement of  
481     employees in bargaining units established in subsection C or D shall be resolved by the Board.

482     B. When a determination of an appropriate unit is necessary, within 30 days of receipt of a petition, the  
483     Board shall conduct a public hearing, receive written or oral testimony, and promptly thereafter file an order  
484     defining the appropriate bargaining unit. In defining such unit, the Board shall take into consideration, along  
485     with other relevant factors, (i) the desires of the employees involved; (ii) the community of interest, including  
486     such factors as the similarity of duties, skills, and working conditions of the employees involved; (iii) wages,  
487     hours, and other working conditions of the employees involved; (iv) the efficiency of operations of the public  
488     employer; (v) the administrative structure of the public employer; (vi) the recommendation of the parties; and  
489     (vii) the history of collective bargaining in other public sector jurisdictions. Nothing herein shall prohibit the  
490     petitioning employee organization and the public employer from entering into a consent agreement on the  
491     appropriate unit in lieu of a hearing.

492     C. Bargaining units of state employees shall include employees in broad classification categories across

493 the various agencies and departments of the executive branch. There shall be bargaining units for each of the  
 494 following:

- 495 1. Administrative services;
- 496 2. Education and media services;
- 497 3. Engineering and technology;
- 498 4. Health and human services counseling services and health care compliance;
- 499 5. Health and human services direct services;
- 500 6. Health and human services health care technology, rehabilitation therapies, pharmaceutical services,  
 501 and nurse and physician assistant services;
- 502 7. Health and human services physician services, psychological services, and dental services;
- 503 8. Natural resources and applied science;
- 504 9. Security guards and protective services;
- 505 10. Corrections;
- 506 11. Juvenile justice;
- 507 12. Probation and parole;
- 508 13. Law enforcement, except for sworn officers in highway patrol;
- 509 14. Sworn officers in highway patrol;
- 510 15. Firefighters;
- 511 16. Other public safety services not described in another subdivision of this subsection;
- 512 17. Trades and operations; and
- 513 18. Individual providers.

514 D. For public school board employees, there shall be the following bargaining units:

- 515 1. Administrative personnel, including principals, assistant principals, and school board employees  
 516 required by the Department of Education or school board job description to have an endorsement pursuant  
 517 to 8VAC20-23-620 of the Virginia Administrative Code;
- 518 2. Licensed personnel, including non-administrative school board employees whose position requires a  
 519 license from the Board of Education or Department of Health Professions and all school board employees  
 520 who as a core job function provide instructional support to students and are required by their job description  
 521 to have a postsecondary degree and state or national-level certification;
- 522 3. Supervisors, as defined in § 40.1-57.4 and excluding school board employees included in the  
 523 bargaining unit for administrative personnel; and
- 524 4. Education support personnel, including all other school board employees who support division  
 525 operations, administration, or education programs.

526 E. Each state-controlled enterprise, independent political subdivision, authority, or agency employing  
 527 public employees not covered by the Virginia Personnel Act (§ 2.2-2900 et seq.) shall have separate  
 528 bargaining units of such employees as determined by the Board.

529 F. Each public institution of higher education, the Virginia Community College System, the University of  
 530 Virginia Medical Center, and the Virginia Commonwealth University Health System Authority shall have  
 531 separate bargaining units as determined by the Board, and employees of such bargaining units shall not be  
 532 included with employees in any bargaining unit described in subsection C.

533 G. Upon request of the exclusive representative involved, there shall be bargaining for state employees by  
 534 a coalition of all or some exclusive representatives, irrespective of a bargaining unit of state employees  
 535 described in subsection C, concerning wages, fringe benefits, and those matters that have applicability to  
 536 more than one bargaining unit of state employees. Upon request of the exclusive representative, there shall  
 537 be supplementary bargaining on behalf of public employees in a bargaining unit or part of a bargaining unit  
 538 concerning matters uniquely affecting those public employees, or consolidated bargaining between two or  
 539 more bargaining units concerning matters affecting those public employees.

540 H. An exclusive representative may represent more than one bargaining unit. Upon the request of an  
 541 exclusive representative that represents more than one bargaining unit, the employer shall negotiate a single  
 542 agreement covering the represented bargaining units.

543 **§ 40.1-57.13. Certification and decertification of exclusive bargaining representatives; representation  
 544 elections.**

545 A. Board certification of an employee organization as the exclusive bargaining representative of a  
 546 bargaining unit shall be upon a petition filed with the Board by a public employee or an employee  
 547 organization and an election pursuant to § 40.1-57.14 or upon administratively acceptable evidence that a  
 548 majority of bargaining unit employees authorized an employee organization to represent them for the  
 549 purposes of collective bargaining.

550 B. A petition of an employee organization for a representation election shall be accompanied by  
 551 administratively acceptable evidence that 30 percent of the public employees in an appropriate bargaining  
 552 unit are members of the employee organization or have authorized it to represent them for the purposes of  
 553 collective bargaining. A petition by an employee organization for certification without an election shall be  
 554 accompanied by administratively acceptable evidence alleging that a majority of the public employees in an

555 appropriate bargaining unit are members of the employee organization or have authorized it to represent  
556 them for the purposes of collective bargaining. Upon validating the evidence that a majority of the public  
557 employees in a bargaining unit are members of the employee organization or have authorized it to represent  
558 them for the purposes of collective bargaining, the Board shall certify the employee organization as the  
559 exclusive bargaining representative of the bargaining unit, provided that no other employee organization  
560 submits evidence that at least 30 percent of the public employees in the appropriate unit support  
561 representation for purposes of collective bargaining by such other employee organization within 21 days of  
562 notification by the Board that it has received the petition as provided in subsection D. In such a case, the  
563 Board shall conduct a secret ballot election between such employee organizations to determine whether the  
564 public employees in the appropriate bargaining unit wish to be represented by any such employee  
565 organization.

566 C. For the purpose of decertification, the petition of a public employee or employee organization shall  
567 allege that an employee organization that has been certified or recognized as the exclusive bargaining  
568 representative of an appropriate unit does not represent a majority of such public employees and that the  
569 petitioners do not want to be represented by an employee organization or seek certification of a different  
570 employee organization. Such petition shall be accompanied by administratively acceptable evidence that 50  
571 percent of such employees do not want to be represented by the exclusive representative employee  
572 organization or seek certification of a different employee organization. Upon validation of the 50 percent  
573 showing of interest, the Board shall conduct a secret ballot election in accordance with this article.

574 D. The Board shall investigate the allegations of any petition and shall give reasonable notice of the  
575 receipt of such petition to all public employees, employee organizations, and public employers named or  
576 described in such petitions or interested in the representation question. When necessary, the Board shall call  
577 an election under § 40.1-57.14 within 30 days of receipt of a petition unless it finds that less than 30 percent  
578 of the public employees in the unit appropriate for collective bargaining support the petition for certification,  
579 or it finds that less than 50 percent of employees in the unit appropriate for collective bargaining support the  
580 petition for decertification, or the appropriate bargaining unit has not been determined pursuant to  
581 § 40.1-57.12.

582 E. For purposes of this article, administratively acceptable evidence to support a petition for certification  
583 without election, for a certification through a representation election, or for a decertification election may  
584 consist of a combination of membership cards, evidence of dues payment, petitions to be represented by a  
585 bargaining representative, or other evidence of a public employee's desire to be represented by an employee  
586 organization for the purposes of collective bargaining, including evidence that satisfies the Uniform  
587 Electronic Transactions Act (§ 59.1-479 et seq.), electronic authorizations, and voice authorizations. The  
588 determination by the Board of the sufficiency of a showing of majority support or sufficiency of support for a  
589 representation election shall not be subject to challenge by any person, employee organization, or public  
590 employer.

591 F. The hearing and appeal procedures shall be the same as provided for in § 40.1-57.11.

592 **§ 40.1-57.14. Elections.**

593 A. Whenever a petition for an election is filed by an employee or employee organization containing the  
594 signatures of at least 30 percent of the public employees in an appropriate bargaining unit, or in the case of  
595 decertification, the signatures of at least 50 percent of such public employees, the Board shall conduct a  
596 secret ballot representation election to determine whether the public employees in the appropriate  
597 bargaining unit wish to be represented by an exclusive bargaining representative. The ballot shall contain  
598 the names of the petitioning employee organization, any employee organization submitting within 21 days of  
599 the initial petition evidence that at least 30 percent of the public employees in the appropriate bargaining  
600 unit support representation for purposes of collective bargaining by that employee organization, and any  
601 incumbent labor organization. The ballot shall also contain an option of no representation.

602 B. If none of the choices on the ballot receives the vote of a majority of the public employees voting, the  
603 Board shall, within 30 days, conduct a runoff election between the two choices receiving the greatest number  
604 of votes.

605 C. Upon written objection filed by any party to the election within 10 days after notice of the results of the  
606 election, if the Board finds that misconduct or other circumstances prevented the public employees eligible to  
607 vote from freely expressing their preferences, the Board may invalidate the election and hold a second or  
608 subsequent election for the public employees.

609 D. Upon completion of a valid election in which the majority choice of the bargaining unit employees  
610 voting is determined, the Board shall certify the results of the election and shall give reasonable notice to all  
611 employee organizations listed on the ballot, the public employers, and the public employees in the  
612 appropriate bargaining unit. An employee organization that is the majority choice of the bargaining unit  
613 employees voting in a valid election under this section shall be certified by the Board as the exclusive  
614 bargaining representative for the bargaining unit employees.

615 E. A petition for decertification or certification of an exclusive bargaining representative shall not be  
616 considered by the Board for a period of one year from the date of the certification or noncertification of an

617 exclusive bargaining representative or during the duration of a collective bargaining agreement not to  
 618 exceed three years. A petition for decertification shall not be considered during the duration of a collective  
 619 bargaining agreement unless the collective bargaining agreement has been in effect for more than three  
 620 years or the petition for decertification is filed not more than 210 days and not less than 180 days prior to the  
 621 expiration of the collective bargaining agreement.

622 F. An exclusive representative recognized or certified in accordance with an ordinance or resolution  
 623 adopted by any county, city, town, local school board, or other unit of government shall be deemed certified  
 624 by the Board and subject to the terms of this article.

625 **§ 40.1-57.15. Duties of exclusive bargaining representative.**

626 A. An employee organization certified as a bargaining representative shall be the exclusive representative  
 627 of all public employees in the bargaining unit and shall represent all public employees fairly, provided that  
 628 an exclusive representative may require a public employee who is not a dues-paying member to pay for the  
 629 reasonable costs and fees of handling a grievance. The exclusive representative may require a non-member  
 630 to pay any anticipated proportional costs and fees prior to a grievance or arbitration hearing. Failure to pay  
 631 costs and fees shall relieve the exclusive representative of further responsibility to the non-member regarding  
 632 the matter. Any individual public employee shall have the right at any time to present a grievance specific to  
 633 that employee to their public employer and to have such grievance adjusted without the intervention of the  
 634 exclusive bargaining representative so long as (i) the adjustment is not inconsistent with the terms of a  
 635 collective bargaining agreement then in effect and (ii) the exclusive bargaining representative has been given  
 636 the opportunity to be present and participate during the grievance process and at such adjustment. The right  
 637 to self-representation does not include the right to present a grievance to arbitration.

638 B. The employee organization that is an exclusive bargaining representative and the public employer may  
 639 designate any individual or individuals as its representatives to engage in collective bargaining negotiations.

640 C. The scope of collective bargaining between a local government and an exclusive bargaining  
 641 representative of local employees shall include wages, hours, and other terms and conditions of employment,  
 642 and the duty to bargain includes matters described in Chapter 15 (§ 15.2-1500 et seq.) of Title 15.2;  
 643 however, benefits provided under Title 51.1 and Title 65.2 shall not be subject to bargaining unless such  
 644 benefits are adopted at the discretion of a local government. To the extent that an agreement is inconsistent  
 645 with the terms of Chapter 15 of Title 15.2, the terms of the agreement shall prevail.

646 D. The scope of collective bargaining between a state agency and an exclusive bargaining representative  
 647 of state employees shall include wages, hours, and other terms and conditions of employment and shall  
 648 specifically include matters within the administrative discretion of the Director of the Department of Human  
 649 Resource Management or appointing authorities; however, benefits provided under Title 51.1 and Title 65.2  
 650 shall not be subject to bargaining. A collective bargaining agreement may not be inconsistent with the  
 651 provisions of Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2, provided that all matters relating to wages,  
 652 salaries, health benefit plans, and employee and employer contributions to such plans shall be a mandatory  
 653 subject of collective bargaining and enforceable in any collective bargaining agreement notwithstanding any  
 654 other provision of law. The Governor shall appoint the state agency's representative in collective bargaining.

655 E. Negotiating sessions, including strategy meetings of public employers or exclusive bargaining  
 656 representatives, mediation, and the deliberative process of arbitrators shall be exempt from the provisions of  
 657 § 2.2-3707.

658 **§ 40.1-57.16. Negotiation and impasse procedures.**

659 A. Except (i) as otherwise agreed by the parties to the negotiations or (ii) in the case of an impasse  
 660 between an exclusive representative of employees that are firefighters or emergency medical services  
 661 providers and the public employers of such employees, which impasse shall be resolved according to the  
 662 provisions of § 40.1-57.24, each state agency and exclusive representative of state employees shall comply  
 663 with the provisions of this section, including the following negotiation and impasse procedures:

664 1. A request for negotiations shall be filed in writing by the exclusive representative to the Commonwealth  
 665 no later than June 1 of each odd-numbered year for any collective bargaining agreement that is to become  
 666 effective on July 1 of the following year;

667 2. Negotiations shall begin no later than July 1 of the year the request is filed;

668 3. If an impasse occurs during negotiations, or if no agreement is reached by the parties by October 1 of  
 669 the year the request is filed, either party may submit a request for mediation to the Board. The parties  
 670 involved shall mutually agree upon a mediator or request the Board to appoint an impartial mediator;

671 4. The mediator shall provide services to the parties until the parties reach agreement, the mediator  
 672 believes that mediation services are no longer helpful, or October 10 of the year the request is filed,  
 673 whichever occurs first. If the mediator determines that mediation services are no longer helpful or if the  
 674 October 10 deadline occurs, the parties shall jointly submit the unresolved issues to final and binding  
 675 arbitration. The parties shall jointly select an arbitrator or, if they are unable to agree on an arbitrator, they  
 676 shall request a list of seven arbitrators from the Federal Mediation and Conciliation Service or the American  
 677 Arbitration Association. Each party in turn shall strike a name from the list until only one name remains.  
 678 Negotiations may continue throughout the impasse procedures;

679     5. Each party shall submit its final offer on each separate item remaining at impasse to the arbitrator and  
680     the other party within 10 days after selection of the arbitrator. The arbitrator shall determine that either the  
681     final offer of the employer or the final offer of the employee organization on each separate issue shall be  
682     incorporated into the final collective bargaining agreement; however, the arbitrator shall not amend the offer  
683     of either party on any issue;

684     6. The arbitrator shall (i) begin hearings no later than November 20 of the year the request is filed in  
685     accordance with procedures prescribed by the Board and (ii) render a decision in writing no later than  
686     December 15 of such year;

687     7. Negotiations following the initial certification of an employee organization as an exclusive  
688     representative of state employees shall convene within 30 days of the request of either party. Either party  
689     may invoke arbitration in accordance with the provisions of subdivisions 4, 5, and 6 any time at least 90 days  
690     after the first negotiation session. Matters not requiring the approval of the General Assembly shall take  
691     effect in accordance with the terms of the agreement or award of an arbitrator. Matters requiring the  
692     approval of the General Assembly shall take effect in accordance with § 40.1-57.17. Initial agreements shall  
693     expire on June 30 of the next even-numbered year; and

694     8. Any time limit specified in this subsection may be extended by mutual agreement of the parties.

695     B. A request for negotiations shall be filed in writing by an exclusive representative of employees of a  
696     local government in a timely fashion reasonably in advance of the local government's budget-making process  
697     or in accordance with any collective bargaining agreement in effect.

698     C. A local government and the exclusive representative may enter into a written agreement setting forth  
699     an impasse resolution procedure. The procedure shall culminate with binding arbitration.

700     D. If local government and the exclusive representative have not agreed to an impasse resolution  
701     procedure, negotiation impasses shall be subject to the following procedures:

702       1. At the request of either party, the parties shall enter into mediation. The parties involved shall mutually  
703       agree upon a mediator or request the Board to appoint an impartial mediator.

704       2. At the request of either party, all impasses not resolved through mediation, or if the parties do not  
705       agree to mediation, the issues subject to impasse, shall be submitted to final and binding arbitration. The  
706       parties shall jointly select an arbitrator or, if they are unable to agree on an arbitrator, they shall request a  
707       list of seven arbitrators from the Federal Mediation and Conciliation Service or American Arbitration  
708       Association. Each party in turn shall strike a name from the list until only one name remains. Negotiations  
709       may continue throughout the impasse procedures.

710       E. In making any decision under the impasse procedures authorized by this article for any public  
711       employer, a mediator or arbitrator shall give weight to the following factors:

712       1. The lawful authority of the public employer;

713       2. Stipulations of the parties;

714       3. The interests and welfare of the public;

715       4. The financial ability of the employer to meet the costs of any items to be included in the contract;

716       5. Comparison of wages, hours, and terms and conditions of employment of the employees involved in the  
717       arbitration proceedings with the wages, hours, and terms and conditions of employment of other persons  
718       performing similar services in the public and private sectors;

719       6. The average consumer prices for goods and services, commonly known as the cost of living;

720       7. The overall compensation presently received by the employees involved in the arbitration, including  
721       wages, insurance benefits, vacations, holidays, and similar benefits;

722       8. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings; and

723       9. Such other factors that are normally or traditionally taken into consideration in the determination of  
724       wages, hours, and terms and conditions of employment through voluntary collective bargaining, mediation,  
725       fact finding, arbitration, or otherwise between the parties, in public service or in private employment.

726       F. The expenses of the mediation and arbitration shall be borne equally by the parties.

727       **§ 40.1-57.17. Funding for agreement implementation.**

728       A. After a negotiated agreement has been agreed to by both parties, or a final and binding arbitration  
729       decision has been rendered in accordance with § 40.1-57.16, the chief executive of the public employer shall  
730       submit to the relevant governing body a request for funds necessary to implement the agreement and for  
731       approval of any other matter requiring the approval of the governing body within five days after (i) the date  
732       on which the parties finalize the agreement or (ii) the date on which the arbitration decision is issued, unless  
733       otherwise specified in this section. If the governing body is not in session at the time, then the submission  
734       shall be within five days after it next convenes.

735       B. The governing body shall approve or reject the submission as a whole.

736       C. If the governing body rejects the submission of the public employer, either party may reopen  
737       negotiations.

738       D. The parties shall specify that those provisions of the agreement not requiring action by a governing  
739       body shall be effective and operative in accordance with the terms of the agreement.

740       E. Upon the expiration of an agreement, the terms of such agreement shall remain in effect until

741 superseded by a new agreement.

742 **§ 40.1-57.18. Judicial review.**

743 The circuit court for the locality in which a dispute arose or in which a majority of the affected employees  
 744 reside may review an award of the arbitrator, or an award of an arbitrator in a grievance arbitration, when  
 745 (i) such arbitrator was without or exceeded his jurisdiction; (ii) the order is not supported by competent,  
 746 material, and substantial evidence on the whole record; or (iii) the order was procured by fraud, collusion,  
 747 or other similar and unlawful means. The pendency of a proceeding for review shall not automatically stay  
 748 the order of an arbitrator.

749 **§ 40.1-57.19. Strikes; lock-outs.**

750 A. In accordance with the provisions of § 40.1-55, any public employee who, in concert with two or more  
 751 other such employees, for the purpose of obstructing, impeding, or suspending any activity or operation of his  
 752 employing agency or any other governmental agency, strikes or willfully refuses to perform the duties of his  
 753 employment shall, by such action, be deemed to have terminated his employment.

754 B. A public employer shall not lock out employees in the event of a dispute with an employee organization.

755 **§ 40.1-57.20. Civil procedures; personal liability.**

756 A. Any employee organization or public employer may sue or be sued as an entity under the provisions of  
 757 this article. Service upon a public employer or upon an exclusive bargaining representative shall be made  
 758 pursuant to Title 8.01.

759 B. Nothing in this article shall be construed to make any individual or his assets liable for any judgment  
 760 against a public employer or an exclusive bargaining representative.

761 **§ 40.1-57.21. Delivery of notices.**

762 Any notice required under the provisions of this article shall be in writing, but service thereof shall be  
 763 sufficient if mailed by restricted certified mail, return receipt requested, addressed to the last-known address  
 764 of the parties, unless otherwise provided in this article or by the rules of the Board, which shall provide for  
 765 the electronic service of documents. Refusal of restricted certified mail by any party shall be considered  
 766 service. Prescribed time periods shall commence from the date of the receipt of the notice. Any party may at  
 767 any time execute and deliver an acceptance of service in lieu of a mailed notice.

768 **§ 40.1-57.22. Employee associations permitted.**

769 Nothing in this article shall be construed to limit any person's right to freedom of speech, to association,  
 770 or to petition or seek redress from the government.

771 **§ 40.1-57.23. Individual providers.**

772 A. For the purposes of this article, an individual provider shall be considered a public employee, and the  
 773 Virginia Home Care Authority shall be considered the public employer of individual providers, except as  
 774 otherwise provided in this section. The scope of collective bargaining between individual providers and the  
 775 Authority shall include wages, benefits, and all terms and conditions of employment that are within the  
 776 Authority's control, including any adverse action impacting such terms and conditions of employment, but  
 777 shall not extend to those rights reserved to participants and participants' representatives pursuant to  
 778 subsection C.

779 B. Any exclusive bargaining representative of individual providers shall be selected by and shall  
 780 represent all individual providers in the Commonwealth, including individual providers who are related to a  
 781 participant or participant's representative.

782 C. Participants or participants' representatives retain the rights to select, hire, direct, supervise, and  
 783 terminate the services of any individual provider providing direct support services for the participant.  
 784 Nothing in this article shall be construed to alter such rights. No provision of any agreement reached  
 785 between any exclusive bargaining representative of individual providers and the Authority shall interfere  
 786 with such rights.

787 D. Nothing in this article shall be construed to classify individual providers as employees of the  
 788 Commonwealth for purposes of eligibility for state retirement programs or health care benefits. The  
 789 Commonwealth shall not be liable for any act or omission by an individual provider.

790 **§ 40.1-57.24. Firefighters and emergency medical services providers; arbitration process.**

791 A. Notwithstanding the provisions of § 40.1-57.16, if a dispute arises between an exclusive representative  
 792 of employees that are firefighters or emergency medical services providers and the public employer of such  
 793 employees in which the collective bargaining process reaches an impasse, or if the relevant governing body  
 794 does not approve an agreement reached between such parties within 30 days after such agreement is  
 795 reached, then either party to such dispute, after written notice to the opposing party specifying the issue or  
 796 issues in dispute, may request the appointment of a board of arbitration.

797 B. Each board of arbitration shall consist of three members, of which one member shall be appointed by  
 798 the public employer, one member shall be appointed by the exclusive representative of such public employer's  
 799 employees, and one member shall be selected by the other two members. The two members appointed by the  
 800 public employer and by the exclusive representative shall be appointed within five days after the date of the  
 801 request to appoint such board of arbitration. If, after at least 10 days have passed since the appointment of  
 802 such two members, the third member has not been selected by such two members, either of the two members

803 *may request a nonprofit organization in the field of alternative dispute resolution that administers arbitration*  
804 *proceedings to furnish a list of three members of such organization residing in the Commonwealth or within*  
805 *250 miles of the public employer. The member appointed by the public employer shall eliminate one name*  
806 *from such list within five days after such list is furnished, and the member appointed by the exclusive*  
807 *representative shall eliminate another name from such list within five days after such initial elimination. The*  
808 *individual whose name remains on such list shall be appointed as the third member and shall serve as the*  
809 *chair of the board of arbitration. The board of arbitration shall commence proceedings within 10 days after*  
810 *the chair is selected and shall make its determination within 30 days after proceedings commence.*

811 *C. Notice by an exclusive representative of a dispute proceeding to a board of arbitration pursuant to this*  
812 *section shall be served upon the head of the relevant governing body.*

813 *D. Each board of arbitration shall be authorized to administer oaths and compel the attendance of*  
814 *witnesses and physical evidence by subpoena.*

815 *E. The compensation for the member of a board of arbitration appointed by an exclusive representative or*  
816 *a public employer shall be paid by the party that appointed such member. The compensation for the*  
817 *remaining member of such board of arbitration, as well as all stenographic and other expenses incurred by*  
818 *such board of arbitration in connection with arbitration proceedings, shall be paid equally by the two parties*  
819 *to the dispute.*

820 *F. The determination of the majority of the members of a board of arbitration established pursuant to this*  
821 *section shall be final on the issue or issues in dispute and shall be binding on the parties involved. Such*  
822 *determination shall be made in writing, and a copy thereof shall be sent to such parties.*

823 *G. No provision of this section shall be construed to prohibit a governing body from granting its*  
824 *employees rights greater than those contained in a board of arbitration's determination.*

825 **2. That §§ 32.1-331.04 and 40.1-54.3 and Article 2.1 (§§ 40.1-57.2 and 40.1-57.3) of Chapter 4 of Title**  
826 **40.1 of the Code of Virginia are repealed.**

827 **3. That the initial appointments of the members of the Virginia Home Care Authority, established**  
828 **pursuant to Article 5 (§ 32.1-331.18 et seq.) of Chapter 10 of Title 32.1 of the Code of Virginia, as**  
829 **created by this act, shall be staggered as follows: one member representing participants and**  
830 **participant representatives, as those terms are defined in § 32.1-331.19 of the Code of Virginia, as**  
831 **created by this act, for a term of one year; one member representing a nonprofit organization that**  
832 **advocates on behalf of seniors or people with disabilities for a term of two years; one member**  
833 **representing participants and participant representatives for a term of three years; and one member**  
834 **representing such a nonprofit organization for a term of four years.**

835 **4. That nothing in this act shall be construed to supersede the existing certification of any exclusive**  
836 **bargaining representative, as defined in § 40.1-57.4 of the Code of Virginia, as created by this act, or**  
837 **any active negotiation or collective bargaining agreement between an employer and employees engaged**  
838 **in a collective bargaining process prior to July 1, 2026, provided that on or after such date, an existing**  
839 **exclusive bargaining representative may be decertified through a petition pursuant to the process**  
840 **described in §§ 40.1-57.13 and 40.1-57.14 of the Code of Virginia, as created by this act.**